

24 Sec. 32. Section 46-609, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 46-609. (1) ~~No~~ Except as otherwise provided by this  
27 section or section 46-610, no irrigation water well shall be  
1 drilled upon any land in this state within six hundred feet of any  
2 registered irrigation water well ~~except (a) any water well the~~  
3 ~~water from which is used solely for domestic, culinary, stock use~~  
4 ~~on a ranch or farm, or the watering of lawns and gardens for family~~  
5 ~~use or profit where the area to be irrigated does not exceed two~~  
6 ~~acres, (b) as provided in section 46-610, and (c) that any~~  
7 ~~irrigation water well which replaces an irrigation water well and~~  
8 ~~no existing non-irrigation water well within six hundred feet of~~  
9 ~~any registered irrigation water well shall be used for irrigation~~  
10 ~~purposes. Such spacing requirement shall not apply to (a) any well~~  
11 ~~used to irrigate two acres or less or (b) any replacement~~  
12 ~~irrigation water well if it is drilled within fifty feet of the~~  
13 ~~irrigation water well being replaced and if the water well being~~  
14 ~~replaced was drilled prior to September 20, 1957, and which is less~~  
15 ~~than six hundred feet from a registered irrigation water well.~~  
16 ~~shall be drilled within fifty feet of the old water well.~~

17 (2) The spacing protection of subsection (1) of this  
18 section shall apply to an unregistered water well for a period of  
19 ~~thirty~~ sixty days after completion of such water well.

20 Sec. 33. Section 46-613.02, Revised Statutes Supplement,  
21 2002, is amended to read:

22 46-613.02. Any person violating any provision of  
23 sections 46-601 to 46-613.01 or furnishing false information under  
24 such sections shall be guilty of a Class IV misdemeanor. ~~The~~  
25 ~~Department of Natural Resources may enforce such sections by~~  
26 ~~instituting proceedings, actions, and prosecutions~~ Each day of a  
27 violation may be considered a separate offense. The Attorney  
1 General and the county attorneys may pursue appropriate proceedings  
2 pursuant to this section when notified by the Director of Natural  
3 Resources that such a violation has occurred.

4 Sec. 34. Section 46-651, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 46-651. (1) Except as provided in section 46-653 or  
7 46-654, (a) no irrigation or industrial water well or water well of  
8 any other public water supplier shall be drilled within one  
9 thousand feet of any registered water well of any public water  
10 supplier, (b) no water well of any such public water supplier shall  
11 be drilled within one thousand feet of any registered irrigation or  
12 industrial water well, (c) no irrigation water well shall be  
13 drilled within one thousand feet of a registered industrial water  
14 well, and (d) no industrial water well shall be drilled within one  
15 thousand feet of a registered irrigation or industrial water well.  
16 Such prohibitions shall not apply to water wells owned by the same  
17 person.

18 (2) An existing water well for which a change in the  
19 intended use is proposed shall be subject to any spacing  
20 requirement in subsection (1) of this section that would apply to  
21 the drilling of a new water well at the same location for the new  
22 use intended.

23 (3) The well-spacing protection of ~~subsection (1)~~  
24 ~~subsections (1) and (2)~~ of this section shall apply to an  
25 unregistered water well for a period of only ~~thirty~~ sixty days  
26 following completion of such water well.

27 (4) The spacing requirements in subsection (1) of this  
1 section shall not apply to any replacement water well if that water  
2 well is drilled within fifty feet of the water well being replaced  
3 and if the water well being replaced was drilled prior to the

4 effective date of this act, was in compliance with any applicable  
5 spacing statute when drilled, and is less than one thousand feet  
6 from the registered water well for which spacing protection is  
7 provided.

8 Sec. 35. Section 46-653, Revised Statutes Supplement,  
9 2002, is amended to read:

10 46-653. Any person may apply to the Director of Natural  
11 Resources for a special permit to drill or to change the intended  
12 use of a water well without regard to the spacing requirements of  
13 section 46-651. Such application shall be on a form prescribed and  
14 furnished by the director and shall contain a statement of the  
15 precise location of the water well or proposed water well, facts  
16 justifying the request for such special permit, the size or  
17 proposed size of such water well, expressed in gallons per minute,  
18 to the extent that capacity is susceptible of advance  
19 determination, and, if applicable, the name of the person who is  
20 actually going to drill the water well. A separate application  
21 shall be submitted for each water well for which a special permit  
22 is sought, and each application shall be accompanied by a fee of  
23 twelve dollars and fifty cents which shall be remitted to the State  
24 Treasurer for credit to the General Fund. When considering the  
25 approval or rejection of any such application, the director shall  
26 consider the facts offered as justification of the need for special  
27 permit, the known ground water supply, and such other pertinent  
1 information as may be available. Such application may be approved  
2 or disapproved in whole or in part and the special permit issued or  
3 refused accordingly.

13 Sec. 43. Section 46-656.08, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~46-656.08.~~ Regardless of whether or not any portion of a  
16 district has been designated as a management area, in order to  
17 administer and enforce the Nebraska Ground Water Management and  
18 Protection Act and to effectuate the policy of the state to  
19 conserve ground water resources, a district may:

20 (1) Adopt and promulgate rules and regulations necessary  
21 to discharge the administrative duties assigned in the act;

22 (2) Require such reports from ground water users as may  
23 be necessary;

24 (3) Require meters to be placed on any water wells for  
25 the purpose of acquiring water use data;

26 (4) Require decommissioning of water wells that are not  
27 properly classified as active status water wells as defined in  
1 section 46-1204.02 or inactive status water wells as defined in  
2 section 46-1207.02;

3 (5) Conduct investigations and cooperate or contract with  
4 agencies of the United States, agencies or political subdivisions  
5 of this state, public or private corporations, or any association  
6 or individual on any matter relevant to the administration of the  
7 act;

8 ~~(5)~~ (6) Report to and consult with the Department of  
9 Environmental Quality on all matters concerning the entry of  
10 contamination or contaminating materials into ground water  
11 supplies; and

12 ~~(6)~~ (7) Issue cease and desist orders, following ten  
13 days' notice to the person affected stating the contemplated action  
14 and in general the grounds for the action and following reasonable  
15 opportunity to be heard, to enforce any of the provisions of the  
16 act or of orders or permits issued pursuant to the act, to initiate  
17 suits to enforce the provisions of orders issued pursuant to the  
18 act, and to restrain the construction of illegal water wells or the  
19 withdrawal or use of water from illegal water wells.

20 Before any rule or regulation is adopted pursuant to this  
21 section, a public hearing shall be held within the district.  
22 Notice of the hearing shall be given as provided in section 79 of  
23 this act.

10 Sec. 81. Section 46-656.10, Revised Statutes Supplement,  
11 2003, is amended to read:

12 ~~46-656.10.~~ (1) Any person who violates a cease and  
13 desist order issued by a district pursuant to section ~~46-656.08~~ 43  
14 of this act shall be subject to a civil penalty of not less than  
15 one thousand dollars and not more than five thousand dollars for  
16 each day an intentional violation occurs. In assessing the amount  
17 of the civil penalty, the court shall consider the degree and  
18 extent of the violation, the size of the operation, whether the  
19 violator has been previously convicted or subjected to a civil  
20 penalty under this section, and any economic benefit derived from  
21 noncompliance. Any civil penalty assessed and unpaid shall  
22 constitute a debt to the state which may be collected in the manner  
23 of a lien foreclosure or sued for and recovered in a proper form of  
24 action in the name of the state in the district court of the county  
25 in which the violator resides or owns property. The court shall,  
26 within thirty days after receipt, remit the civil penalty to the  
27 State Treasurer for credit to the permanent school fund.

1 (2)(a) Prior to issuing a cease and desist order against  
2 a public water supplier as defined in section 46-638, the district  
3 shall consult with the Attorney General. If the Attorney General  
4 determines that the district does not have sufficient grounds to  
5 issue a cease and desist order, the district shall abide by such  
6 determination and shall not issue a cease and desist order. The  
7 Attorney General shall have exclusive authority to enforce actions  
8 under this subsection.

9 (b) Any determination as to whether a water well is  
10 properly registered under sections 46-602 to 46-604 or whether a  
11 water well is properly permitted under the Municipal and Rural  
12 Domestic Ground Water Transfers Permit Act shall be made by the  
13 Department of Natural Resources.

14 (3) When the Attorney General, a county attorney, or a  
15 private attorney brings an action on behalf of a district to  
16 recover a civil penalty under this section, the district shall  
17 recover the costs of the action if a civil penalty is awarded. Any  
18 recovered costs of the action shall be: (a) Remitted to the State  
19 Treasurer for credit to the Department of Justice Natural Resources  
20 Enforcement Fund if the action is brought by the Attorney General;  
21 (b) credited to the applicable county fund if the action is brought  
22 by the county attorney; and (c) remitted to the district if the  
23 action is brought by the district's private attorney.

24 (4) The Department of Justice Natural Resources  
25 Enforcement Fund is created. The fund shall consist of money  
26 credited pursuant to subsection (3) of this section. Money in the  
27 fund shall be used to reimburse the office of the Attorney General  
1 for the costs incurred in enforcing this section. Any money in the  
2 fund available for investment shall be invested by the state  
3 investment officer pursuant to the Nebraska Capital Expansion Act  
4 and the Nebraska State Funds Investment Act.